
RAPOPORT CENTER INVESTIGATES AFRO-COLOMBIAN TERRITORIAL RIGHTS

by KAREN ENGLE

T

THE ISLAS DEL ROSARIO FORM PART OF A national park off Colombia's Caribbean coastline. Isla Grande can be reached from Cartagena in a speedboat in an hour and is a popular tourist destination. It is populated by some of Colombia's

wealthiest "whites," and has a local "native" community. The latter are Afro-descendants who mostly make their living through the tourist industry. They trace their history to the arrival of slaves in nearby Barú in the 1600s. Many of these slaves eventually purchased their freedom, and subsisted from fishing, collecting fruit, and tending livestock in the Islas del Rosario.

On March 23, 2007, I spent the day on Isla Grande with two Latin American Studies graduate students, Josh Clark and Sylvia Romo. We traveled to the island on a tourist boat with our "guide," Luis, an Afro-Colombian activist. He was the only Afro-descendant on the boat, as locals generally travel on a small craft that, due to the direction and strength of the current, is often unable to return the same day.

We exited the boat with mission in hand. We had spent the previous week with six other UT students in Bogotá and in the nearby displaced community of Soacha, investigating the territorial rights of Afro-Colombians for a report to the Inter-American Commission on Human Rights. The majority of the Afro-descendants with whom we had met were from the Pacific coast region, so we decided to spend some time in the Caribbean, where we had heard there were a number of urgent and legally complicated matters. One of those matters was

on Isla Grande.

As we embarked on our mission and headed toward our destination, some of the German tourists on the boat began to follow us. The official guide of the boat called to them to follow her instead; they were going snorkeling.

We went to visit community leaders and Javier Morales, or "Cuco" as he is known on the island. Cuco is an Afro-Colombian who moved to Isla Grande forty-five years ago from Barú. He was eight-years-old at the time. Because he worked as a child and his family had few to no resources, he told us, he never learned to write nor even ride a bicycle. More than twenty years ago, he and his wife moved to and began tending four hectares of land near the edge of the island. Called "Buena Esperanza" ("Good Hope"), the property is registered in the name of Garcés, a "white" man who rarely comes to the island, and essentially has given Cuco free rein over the property. Cuco is raising his family on the land and has constructed a restaurant and some small, eco-friendly, guest facilities there. He charges the equivalent of US\$70 a day for a simple, palm-thatched one-room hut for two (with meals). The price is a bargain on this island.

The day before our visit, nine police officers, several authorities from the Colombian Institute of Rural Development (INCODER), and a representative of the Ministry of the Environment arrived at Cuco's door with orders to evict him from the property. They left six or seven hours later with full stomachs (thanks to their prospective evictee's notorious hospitality) and after having engaged in extended conversation with

EVEN WHEN AFRO-COLOMBIAN ISSUES ARE CONSIDERED IN DISCUSSIONS ABOUT A FREE TRADE AGREEMENT, THE EXTENT TO WHICH THEY RESULT FROM STRUCTURAL DISCRIMINATION IS OFTEN OVERLOOKED.

Cuco, community leaders, and over 100 residents from the nearby village of Orika. When the officials boarded the boat back to the mainland, the situation remained unresolved.

Although the police arrived with an eviction notice, the government's original aim seems to have been to pressure Garcés to sign an agreement for the use and enjoyment of the land in exchange for rent and acknowledgment that the land belongs to the state. In fact, the Colombian government has designated the island's lands as "baldíos reservados de la Nación" ("uncultivated national lands") and, since 2001, has been involved in a process of "recuperating" the island. By the end of March 2007, it had reached rental agreements with nearly 80 percent of the island's occupants—mostly white owners of vacation houses and hotels. INCODER has served eviction notices to many of those who have refused to enter into this agreement. Because Garcés has refused to agree to pay rent, Cuco was the recipient and subject of the eviction.

As we drank coffee in Cuco's open-air restaurant, we tried to get a grasp on what had happened the previous day. We arrived with a copy of Cartagena's morning newspaper with a front-page mention of the events, and a quarter-page inside article under the headline "Nativos

Impedieron Diligencia: Desalojo Choco con Problema Ignorado" ("Natives Obstruct the Law: Eviction Clashes with a Neglected Issue"). The neglected issue to which the newspaper refers is that the expulsion notice would either directly displace or force an agreement between a black occupant and the state. In this sense, it would seem that Cuco's attempted eviction and the protest it incited were unforeseen results of the implementation of the state's plan.

For native community leaders, however, the eviction order had clear and foreseeable implications for Afro-Colombian rights to property across the region. Indeed, Cuco has become a cause célèbre for the native community that is attempting to gain title over part of the island using Ley 70, a 1993 law that created a process by which Afro-Colombian communities could apply for collective title for the lands they occupy. On its face, the part of the law that facilitates collective titling does not apply to the Caribbean region. Yet, Colombia has a progressive Constitutional Court, and some have argued that it should read such coverage into the spirit of the law. In response, INCODER insists that the island does not comprise lands that are subject to titling under Ley 70. Cuco's attempted eviction has provided a way for the community to pressure the government to move

STUDENT DELEGATION TO COLOMBIA

From the participants . . .

"The trip helped to solidify my interest in human rights law. It was extremely beneficial to learn about human rights in a real life setting and meet people whose lives have been directly affected by the issues that we are studying."

—Amber VanSchuyver

"The experience was engaging and humbling at the same time, and I hope that with the report that we will submit to the Inter-American Commission on Human Rights we will increase the pressure on the Colombian state to protect and respect all of its citizens."

—Paul Di Blasi



Left to right: 1) Cuco's restaurant on Isla Grande del Rosario, 2) Delegation members meeting with residents of Isla Grande del Rosario, 3) Cuco in his restaurant

LLILAS OFFERS HUMAN RIGHTS CONCENTRATION

The Spring Break 2007 human rights delegation to Colombia is part of a developing partnership between LLILAS and the Rapoport Center for Human Rights and Justice. Collaborative work between the two centers began last year with the establishment of the Human Rights Concentration in Latin American Studies. This initiative promotes a multidisciplinary curriculum within the M.A. program that considers the history, theory, rhetoric, and practice of human rights.

The concentration is organized around three primary threads:

- 1) Contemporary human rights doctrine and historical development of the human rights movement;
- 2) The role of human rights discourse in the formation and allocation of power among various social groups;
- 3) The role of human rights in the formation of public policy and the development of modern Latin American states.

Efforts are made to connect human rights concentration students with relevant research projects and opportunities during and after their tenure in the M.A. program. The Colombia delegation is only a first example of the enriching and productive possibilities for students in this exciting new concentration.



Isla Grande del Rosario

forward with an official consideration of its Ley 70 application. Cuco has added to that pressure by, thus far, refusing to sign any agreement with the government for use of the land.

The case of Isla Grande del Rosario is representative of many of the issues at play on Colombia's Atlantic coastline. Although Afro-Colombian communities have only recently begun to organize and identify themselves as culturally distinct in the region in the last ten years, the prevalence of both direct and systemic discrimination based on race is undeniable. In the department of Bolívar, where Cartagena and the Islas del Rosario are located, 66 percent of the population is black. Although Cartagena is known for its cosmopolitan appeal and world-class hotels and restaurants, it is also one of the poorest cities in the country. The poverty rate exceeds 75 percent, while 25 percent of the population lacks basic necessities. In general, we were told that the departments in the Atlantic region have the lowest economic development indicators in the country, with the exception of the Pacific department of Chocó. The region has a high rate of infant mortality, and several of the departments have among the highest levels of malnutrition in the country.

President Bush and Colombian President Alvaro Uribe met in Bogotá on March 11, the day after the UT students arrived, and again in Washington on May 2, 2007. These visits, and some U.S. congressional opposition to the prospective free trade agreement, have brought Colombia back to the attention of the media in the United States. Many activists in both countries have tried to use (opposition to) the free trade agreement to push the Bush administration to pressure the Uribe

government to improve its human rights record and significantly reduce paramilitary activity. Some members of Congress are refusing to consider a free trade agreement until the Uribe government has shown measurable and sustained progress in these areas.

Even when Afro-Colombian issues are considered in discussions about a free trade agreement, the extent to which they result from structural discrimination is often overlooked. Indeed, when economic disparities in Colombia are discussed, the disproportionate effects of poverty on Afro-descendants are often ignored. An Associated Press article from April 22, 2007, for example, is entitled "Poverty, Crime Cloud Cartagena's Tourism Hopes," but only makes one somewhat veiled reference

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The UT Colombia Delegation with members of the youth dance group La Palma Negra in Soacha, a displaced community south of Bogotá. Standing (from left): Paul Di Blasi (Law), four members of La Palma, Elizabeth Walsh (Delegation Coordinator), Josh Clark (LLILAS), Prof. Karen Engle, and Alysia Childs (Anthropology); kneeling (from left): Nicki Alam (Public Policy), Amber VanShuyver (Law), Kendall Zanowiak (LLILAS), Sylvia Romo (LLILAS), and member of La Palma (not pictured, Sarah Cline, Rapoport Center).

to race. Seemingly as a way to inform its readers that Afro-descendants live in the region, the article quotes a priest who runs the Afro-Caribbean Cultural Center. The article points to Cartagena's 15 percent unemployment rate to support its claim that in Cartagena "the gulf between Colombia's rich and poor is at its widest." Yet, it fails to discuss which parts of the population are most likely to be poor. The AP story reflects the way that these issues are often discussed on the Caribbean coast itself, even among some of those who would be identified as "black." Discussions of disproportionate effects based on race draw attention to a painful history of slavery, exclusion, and persistent power differentials from which many would prefer to distance themselves.

Still, as the tourism industry has expanded and been dominated by mega-projects in the Caribbean, Afro-Colombian communities have been literally pushed to the margins, where their existence continues to be threatened. It is estimated that 50 percent of internally displaced Colombians are of African descent. Their displacement, of course, is not solely a direct result of armed conflict. With regard



LLILAS AND THE RAPOPORT CENTER WELCOME ARIEL DULITZKY

"I believe that the Rapoport Center, in collaboration with LLILAS, has the potential to become the premier institution in the world for the study of human rights in Latin America. Guided by the interests of faculty and students and building on the historical, cultural, political, economic, and geographical ties between UT and Latin America, the center will become a space where the next generation of effective human rights advocates will learn and grow."—Ariel Dulitzky

LLILAS and the UT School of Law are pleased to welcome Ariel Dulitzky as Associate Director of the Rapoport Center and Lozano Long Visiting Professor, beginning September 2007. As part of his position at the Rapoport Center, Dulitzky will coordinate and develop programs related to human rights and Latin America, including the new Human Rights Concentration in Latin American Studies. He will teach a course on Human Rights in Latin America, which will be cross-listed with Latin American Studies, and an interdisciplinary human rights clinic that will focus on Latin America.

Dulitzky brings a wealth of experience in this field to the Law School. He has been a Human Rights Senior Specialist and Deputy Executive Secretary for the Inter-American Commission on Human Rights. One of his many significant contributions in his six years at the commission was the creation of the Special Rapporteurship on Afro-Descendants and Racial Discrimination. He also played a crucial role in the adoption by the commission of many decisions dealing with indigenous peoples. At UT, Dulitzky plans to have the Latin America Human Rights Clinic engage crucial issues related to these marginalized communities by pursuing partnership, dialogue, and collaboration with human rights NGOs and academic centers in Latin America and with the Inter-American Commission and Court on Human Rights.

Prior to joining the commission, Dulitzky served as the Latin America Program Director at the International Human Rights Law Group and the Co-Executive Director of the Center for Justice and International Law (CEJIL). He also has taught human rights at American University, Washington College of Law, and the University of Buenos Aires.

to the Caribbean, the early 1970s' development of Boca Grande, the tourist beach center of Cartagena, led to one of the first forcible displacements of between 2,500 and 3,000 residents of a fishing village, most of whom were Afro-Colombian. Continued development along the coastline between Cartagena and Barranquilla has led to similar displacements for the past thirty-five years.

Afro-Colombians are likely to be further marginalized by the free trade agreement that has been proposed between the countries. Like our foreign policy toward Central America in the 1980s, our economic and political relationships

with Colombia once again point us to the ways in which the United States is implicated in human rights violations "abroad." In fact, the students can attest to the fact that Colombia is not so far away; it might well have taken them longer to drive to South Padre Island in spring break traffic than to fly to Bogotá.

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